

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

BERT DALMAYER, *et al.*,

Plaintiffs,

v.

Case Number 08-12784

Honorable Thomas L. Ludington

STATE OF MICHIGAN, *et al.*,

Defendants.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
AND GRANTING DEFENDANTS ROGERS CITY AND MATTHEW QUAINÉ'S
MOTION FOR SUMMARY JUDGMENT**

Magistrate Judge Charles E. Binder issued a report and recommendation on July 27, 2009 recommending that Defendants Rogers City and Matthew Quainé's motion for summary judgment be granted. [Dkt. # 103]. The report and recommendation was served on Plaintiffs the same day, starting the ten-day period in which they may object. 28 U.S.C. § 636. None of the parties to this action filed objections to the report and recommendation. A party's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [Dkt. # 103] is **ADOPTED**.

It is further **ORDERED** that Defendants Rogers City and Matthew Quainé's motion for summary judgment [Dkt. # 74] is **GRANTED**.

It is further **ORDERED** that the claims asserted against Defendants Rogers City and Matthew Quaine are **DISMISSED WITH PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: August 24, 2009

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 24, 2009.

s/Tracy A. Jacobs
TRACY A. JACOBS